



OFFICE of the ATTORNEY GENERAL
GREG ABBOTT

July 30, 2003

Ms. Lillian Guillen Graham
Assistant City Attorney
City of Mesquite
P.O. Box 850137
Mesquite, Texas 75185-0137

OR2003-5257

Dear Ms. Graham:

You ask whether certain information is subject to required public disclosure under chapter 552 of the Government Code. Your request was assigned ID# 185118.

The Mesquite Police Department (the "department") received a written request for records of all police calls to the requestor's address. You contend that some of the requested information is excepted from required disclosure pursuant to sections 552.101 and 552.130 of the Government Code.

Section 552.101 of the Government Code protects "information considered to be confidential by law, either constitutional, *statutory*, or by judicial decision." (Emphasis added.) In this regard, section 771.061(a) of the Health and Safety Code makes confidential certain information that telephone companies and the United States Postal Service furnish a governmental entity that provides computerized 911 emergency services. *See generally* Open Records Decision No. 661 (1999). On the other hand, sections 772.118, 772.218, and 772.318 of the Health and Safety Code make confidential the originating telephone numbers and addresses of 911 callers furnished by a 911 service supplier. *See* Open Records Decision No. 649 (1996). Based on your representation that the department is part of an emergency communication district that was established under section 772.118, we conclude that the department must withhold pursuant to section 552.101 of the Government Code all such telephone numbers and addresses contained in the documents at issue.

Section 58.007(c) of the Family Code provides in pertinent part:

(c) Except as provided by Subsection (d), law enforcement records and files concerning a child may not be disclosed to the public and shall be:

- (1) kept separate from adult files and records; and
- (2) maintained on a local basis only and not sent to a central state or federal depository, except as provided by Subchapter B.

Fam. Code § 58.007(c). Subsection 58.007(d) authorizes the release of certain juvenile law-enforcement records to the Texas Youth Commission and the Texas Department of Criminal Justice, and thus is inapplicable here. *See also* Fam. Code § 58.007(e) (authorizing release of juvenile law-enforcement records to other juvenile justice agency or criminal justice agency). Section 58.007(c) does not grant the law-enforcement officials controlling juvenile records discretion as to who else may see them.¹ After reviewing the submitted records, we conclude that Report #02067448 and Incident # 011219171117 constitute law-enforcement records concerning delinquent conduct for purposes of section 58.007(c). Because section 58.007(c) does not authorize the release of the juvenile law-enforcement records in this instance, we conclude that the department must withhold Report #02067448 and Incident #011219171117 in their entirety pursuant to section 552.101 of the Government Code. *See* Open Records Decision No. 181 (1977).

Section 261.201(a) of the Family Code provides as follows:

The following information is confidential, is not subject to public release under Chapter 552, Government Code, and may be disclosed only for purposes consistent with this code and applicable federal or state law or under rules adopted by an investigating agency:

- (1) a report of alleged or suspected abuse or neglect made under this chapter and the identity of the person making the report; and
- (2) except as otherwise provided in this section, the files, reports, records, communications, and working papers used or developed in an investigation under this chapter or in providing services as a result of an investigation.

After reviewing the information at issue, we agree that report #02000575 comes within the scope of section 261.201 of the Family Code. You have not indicated that the department has adopted a rule that governs the release of this type of information. Therefore, we assume that no such regulation exists. Given that assumption, report #02000575 must be withheld in its entirety pursuant to section 552.101 of the Government Code in conjunction with section 261.201 of the Family Code. *See* Open Records Decision No. 440 at 2 (1986)

¹This is in contrast to section 58.007(b) of the Family Code, which allows "with leave of the juvenile court" inspection of juvenile court records by any person "with a legitimate interest." *See* Fam. Code § 58.007(b).

(predecessor statute). *But see* Fam. Code § 261.201(b) (provision for court ordered access), (f) (limited right of access to records held by Department of Protective and Regulatory Services).

Finally, we note that one of the submitted documents contains information that must be withheld from the public pursuant to section 552.130(a)(2) of the Government Code, which requires the withholding of information relating to “a motor vehicle title or registration issued by an agency of this state.” Consequently, the department must withhold all Texas license plate and VIN numbers pursuant to section 552.130(a)(2). We have marked the document accordingly.

In summary, the department must withhold all originating telephone numbers and addresses of 911 callers furnished by the department’s 911 service supplier in accordance with section 772.118 of the Health and Safety Code. The department must withhold Report #02067448 and Incident #011219171117 in their entirety pursuant to section 58.007 of the Family Code. The department must also withhold report #02000575 pursuant to section 261.201 of the Family Code. Finally, the department must withhold the information we have marked as coming within the protection of section 552.130(a)(2). The remaining submitted information must be released to the requestor.

This letter ruling is limited to the particular records at issue in this request and limited to the facts as presented to us; therefore, this ruling must not be relied upon as a previous determination regarding any other records or any other circumstances.

This ruling triggers important deadlines regarding the rights and responsibilities of the governmental body and of the requestor. For example, governmental bodies are prohibited from asking the attorney general to reconsider this ruling. Gov’t Code § 552.301(f). If the governmental body wants to challenge this ruling, the governmental body must appeal by filing suit in Travis County within 30 calendar days. *Id.* § 552.324(b). In order to get the full benefit of such an appeal, the governmental body must file suit within 10 calendar days. *Id.* § 552.353(b)(3), (c). If the governmental body does not appeal this ruling and the governmental body does not comply with it, then both the requestor and the attorney general have the right to file suit against the governmental body to enforce this ruling. *Id.* § 552.321(a).

If this ruling requires the governmental body to release all or part of the requested information, the governmental body is responsible for taking the next step. Based on the statute, the attorney general expects that, within 10 calendar days of this ruling, the governmental body will do one of the following three things: 1) release the public records; 2) notify the requestor of the exact day, time, and place that copies of the records will be provided or that the records can be inspected; or 3) notify the requestor of the governmental body’s intent to challenge this letter ruling in court. If the governmental body fails to do one of these three things within 10 calendar days of this ruling, then the requestor

should report that failure to the attorney general's Open Government Hotline, toll free, at (877) 673-6839. The requestor may also file a complaint with the district or county attorney. *Id.* § 552.3215(e).

If this ruling requires or permits the governmental body to withhold all or some of the requested information, the requestor can appeal that decision by suing the governmental body. *Id.* § 552.321(a); *Texas Dep't of Pub. Safety v. Gilbreath*, 842 S.W.2d 408, 411 (Tex. App.—Austin 1992, no writ).

Please remember that under the Act the release of information triggers certain procedures for costs and charges to the requestor. If records are released in compliance with this ruling, be sure that all charges for the information are at or below the legal amounts. Questions or complaints about over-charging must be directed to Hadassah Schloss at the Texas Building and Procurement Commission at (512) 475-2497.

If the governmental body, the requestor, or any other person has questions or comments about this ruling, they may contact our office. We note that a third party may challenge this ruling by filing suit seeking to withhold information from a requestor. Gov't Code § 552.325. Although there is no statutory deadline for contacting us, the attorney general prefers to receive any comments within 10 calendar days of the date of this ruling.

Sincerely,



Sarah I. Swanson
Assistant Attorney General
Open Records Division

SIS/RWP/sdk

Ref: ID# 185118

Enc: Submitted documents

c: Ms. Anita Carter
2041 Spring Mills
Mesquite, Texas 75181
(w/o enclosures)